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IN RE: MCKINSEY & CO., INC.
NATIONAL PRESCRIPTION OPIATE
CONSULTANT LITIGATION

This Order Relates to:

ALL ACTIONS

Case No. [21-md-02996-CRB](#) (SK)

**PRETRIAL ORDER NO. 2: ORDER
APPOINTING PLAINTIFFS' LEAD
COUNSEL AND PLAINTIFFS'
STEERING COMMITTEE**

On July 29, 2021, the Court invited counsel for the various plaintiffs in this matter to apply for a Plaintiffs' Steering Committee ("PSC") or Lead Counsel position. Order re Plaintiff Leadership Applications (dkt. 158). The Court received a total of twenty-six applications and three responses. Having carefully considered them, the Court orders as follows.

I. LEAD COUNSEL

The Court appoints Elizabeth J. Cabraser of Lieff Cabraser Heimann & Bernstein, LLP as Plaintiffs' Lead Counsel and as Chair of the PSC. Ms. Cabraser has extensive experience with multi-district litigation, has held leadership positions in several different MDLs, including as a member of the Plaintiffs' Executive Committee ("PEC") in In re National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio), and has the support of several of her fellow counsel in this MDL. The Court has first-hand knowledge of Ms. Cabraser's leadership abilities, having worked with her in her role as Lead Counsel and Chair of the PSC in Volkswagen "Clean Diesel", MDL No. 2672 (N.D. Cal.) and as a member of the PSC in In re Bextra and Celebrex Marketing, Sales Practices, and Products

1 Liability Litigation, MDL No. 1699 (N.D. Cal.). These experiences give the Court
2 confidence that Ms. Cabraser will effectively represent and guide the plaintiffs toward a
3 resolution that is in their best interests.

4 The Court vests Ms. Cabraser, as Lead Counsel and PSC Chair, with the authority
5 and duty to coordinate and oversee the PSC responsibilities set forth below; to schedule
6 PSC meetings and keep minutes or transcripts of these meetings; to appear at periodic
7 Court-noticed status conferences and hearings; to sign and file all pleadings that relate to
8 all actions; and to bind the PSC in scheduling settlement discussions and discovery, setting
9 agendas, entering into stipulations, and in other necessary interactions with any other
10 relevant parties. Ms. Cabraser shall also have the authority to retain the services of any
11 attorney not part of the PSC to perform any common benefit work, provided the attorney
12 so consents and is bound by the PSC's compensation structure. She shall perform other
13 necessary PSC administrative and logistic functions and carry out any other duty as the
14 Court may order.

15 Lead Counsel shall also do the following:

- 16 • Establish and maintain a depository for orders, pleadings, hearing transcripts, and
17 all documents served upon plaintiffs' counsel, and make such papers available to
18 plaintiffs' counsel upon reasonable request.
- 19 • Maintain, in conjunction with their accountant, records of receipts and
20 disbursements advanced by PSC members and received by the PSC and report in
21 writing to the PSC concerning disbursements and receipts.
- 22 • Designate counsel to schedule depositions, set agendas and otherwise interact with
23 defense counsel, various plaintiffs' counsel, and any other relevant parties.

24 **II. PLAINTIFFS' STEERING COMMITTEE**

25 The Court appoints the following attorneys as members of the PSC:

26 **Chair**

27 Elizabeth J. Cabraser
28 Lieff Cabraser Heimann & Bernstein, LLP

United States District Court
Northern District of California

1 Embarcadero Center West
2 275 Battery Street, 29th Floor
3 San Francisco, CA 94111-3339

4 **NAS Children**

5 Scott R. Bickford
6 Martzell, Bickford & Centola, APC
7 338 Lafayette Street
8 New Orleans, LA 70130

9 **Independent School Districts**

10 Cyrus Mehri
11 Mehri & Skalet, PLLC
12 1250 Connecticut Avenue NW
13 Washington, D.C. 20036

14 **Indian Tribes**

15 Lloyd B. Miller
16 Sonosky, Chambers, Sachse,
17 Miller & Monkman, LLP
18 725 East Fireweed Lane
19 Anchorage, AK 99503

20 **Third Party Payors**

21 James Dugan
22 The Dugan Law Firm, LLC
23 365 Canal Street, Ste 1000
24 New Orleans, LA 70130

25 **Political Sub-Divisions**

26 Aelish M. Baig
27 Robbins Geller Rudman & Dowd, LLP
28 One Montgomery Street, Ste 1800
San Francisco, CA 94104

Emily Roark
Bryant Law Center, PSC
601 Washington Street, P.O. Box 1876
Paducah, KY 42002-1876

1 Jayne Conroy
2 Simmons Hanly Conroy, LLC
3 112 Madison Avenue, 7th Floor
4 New York, NY 10016
5
6

7 Joe Rice
8 Motley Rice, LLC
9 28 Bridgeside Boulevard
10 Mt. Pleasant, SC 29464
11
12

13 Matthew Browne
14 Browne Pelican, PLLC
15 7007 Shook Avenue
16 Dallas, TX 75214
17
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19 The PSC appointments are personal to the individual attorney appointed. While the
20 Court has considered PSC members' resources and expects that they will draw upon their
21 firms and co-counsel to assist them with their duties, each member is personally
22 responsible for his or her duties. The Court may add or replace members upon request
23 from the PSC, or on its own motion, if and as circumstances warrant.
24

25 It is intended and expected by this Order that—as to all matters common to the
26 coordinated cases, and to the fullest extent consistent with the independent fiduciary
27 obligations owed by any and all plaintiffs' counsel to their clients and any putative class—
28 pretrial proceedings shall be conducted by and through the PSC.

29 The PSC is responsible for creating its own structure, including establishing
30 subcommittees, subject to the Court's approval. The Court recognizes that changes to the
31 PSC's organization may be necessary as the litigation progresses and new details emerge.
32

33 All time keepers carrying out work for the plaintiffs' common benefit, including
34 PSC members, who may look to any common fund or agreement for reimbursement or
35 compensation shall maintain detailed and contemporaneous time records. The Court will
36 issue a subsequent Order regarding the guidelines and rules for work done and expenses
37 incurred for the common benefit of all plaintiffs in this MDL.
38

United States District Court
Northern District of California

III. CASE MANAGEMENT CONFERENCE

As discussed at the July 29, 2021 status conference, Lead Counsel and the PSC shall meet and confer with McKinsey as to:

- The process and schedule for briefing the effect of the settlement agreements for plaintiffs that McKinsey contends are bound by the settlements.
- The process and schedule going forward for plaintiffs that McKinsey does not contend are bound by the settlements.
- The status of the discovery that McKinsey has produced in In re National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio) and has or will produce to the Attorneys General in connection with the settlements, including the timeline for producing the discovery in this action.

The parties shall file a joint written submission on August 31, 2021 advising the Court of their determinations on these subjects. The Court will hold a case management conference on September 2, 2021 via Zoom Webinar regarding the submission and any other matters that the Court deems appropriate.

IT IS SO ORDERED.

Dated: August 16, 2021



CHARLES R. BREYER
United States District Judge